

### **Remarks**

Applicant has carefully reviewed the Office Action dated March 23, 2006, in which claims 33-64 were pending and have been rejected. With this response, claims 33 and 49 have been amended, and claims 36-37, 51-52 and 64 have been cancelled. Favorable reconsideration is requested.

#### ***Claim Amendments***

Claim 33 was amended to incorporate the elements of dependent claims 36 and 37; and claim 49 was amended to incorporate the elements of dependent claims 51 and 52. No new matter has been introduced.

#### ***Claim Rejections—35 U.S.C. § 102***

Claims 33, 45, 46 and 48 were rejected under 35 U.S.C § 102(e) as being anticipated by Gilson et al. (US 2002/0052626). Applicants respectfully traverse this rejection.

As independent claim 33 has been amended to be, in substance, identical to the previously pending claim 37, which was not rejected as anticipated by Gilson et al., this rejection is moot. As claims 45, 46 and 48 depend from claim 33, the rejection is likewise moot with regard to these claims as well.

#### ***Claim Rejections—35 U.S.C. §103***

Claims 34-38, 41-44, 47, 49-53 and 56-64 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Gilson et al. in view of Stachle et al. (U.S. Patent No. 6,132,458). Applicant respectfully traverses this rejection.

Each independent claim (claims 33 and 49) recites “providing a loading tool having a proximal end, a distal end, and a lumen extending therethrough, and further

comprising a first inside diameter region proximate the distal end thereof and a second inside diameter region proximate the proximal end thereof.” Gilson et al. do not appear to disclose such a loading tool having first and second inside diameter regions. Staehle et al. disclose a loading tool having such regions, and it is proposed that “it would have been obvious to one having ordinary skill in the art at the time the invention was made to load a filter into a delivery sheath by the loading tool of Staehle since it is known in the art to load a filter into a compressed state with a funnel device.”

Applicant respectfully disagrees; Gilson et al. lack motivation to use the loading tool of Staehle et al. because it would render their method of loading filters unsatisfactory for the sort of filter Gilson et al. use. As is stated in MPEP 2143.01, “if proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.” *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

The filters disclosed in Gilson et al. appears to be all filters slidably disposed on a wire and consequently have a proximal lip that in conjunction with the wire creates a stepwise profile that may catch against the lip of a loading tool. This chance appears to be minimal in the loading tool of Gilson et al. The tool flares distally to create a lip that is oblique to the stepwise rim of the filter.

Now if one were to replace the tool of Gilson et al. with that of Staehle, one would have a lengthened distal region (the area roughly from 10 to 17 in Figure 1 of Staehle) that provides several disadvantages to Gilson et al. One is that the lip of the loading tool is oriented to catch the proximal rim of a filter—the inside surface of the loading tool would be parallel to the wire, which would allow the distal surface of the

loading tool to catch flat against the rim of the filter. A second is that the increased length of the loading tool provides more longitudinal room for a wire to bend and move to one side to allow the rim of the filter to catch. Consequently the proposed modification faces at least those disadvantages (disadvantages which do not apply to the device of Staehle, in that the stent is preloaded in the deployment tool and no wire or other flexible member is present). Likewise, the reasons Staehle has for having a lengthened distal portion do not apply to Gilson et al. The deployment tool of Staehle et al. has the lengthened distal portion to accommodate the inserter 20, which needs to be depressed to load the stent into the catheter. No such inserter is required (or makes sense) in a method of pulling the filter within the lumen of the delivery sheath. For at least these reasons, there is no motivation for Gilson et al. to modify its method to use the funnel of Staehle et al.

Applicant therefore respectfully submits that independent amended claims 33 and 49 are in condition for allowance and that claims 34-35, 38-48, 50 and 53-63, which depend therefrom and contain additional elements, are also in condition for allowance.

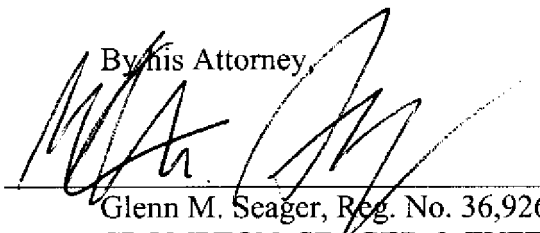
Reexamination and reconsideration are respectfully requested. It is respectfully submitted that the claims are now in condition for allowance, issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

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By this Attorney

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